

MOTION

In The United States District Court
For The Middle District of North Carolina

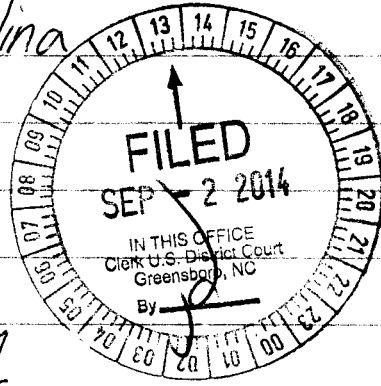
United States of America

v.

Brian David Hill

MOTION

1:13CR435-1



MOTION TO WITHDRAW GUILTY PLEA

In accordance with Local Criminal Rule 32(d) undersigned pro se defendant files a MOTION with the court to ~~with~~ withdraw my guilty plea on grounds of ineffective and misrepresentation of counsel, factual and credible claim of innocence, and the fact I was not aware of all the consequences my guilty plea would cause.

I include Attachment A, Attachment B and the "Counter Investigation Report For Probation PSI" document filed with the Salisbury, NC Probation Office Aug 26 2014, as evidence to advance a fair and just reason to withdraw my guilty plea.

Respectfully and humbly requested and filed with the court on August 27, 2014.

Flip over for page 2 Attachment A page 1/2

I, Brian David Hill, declare under penalty of perjury that the foregoing is true and correct. Executed on August 27, 2014.

Statements:

Brian D. Hill
signed

1. I didn't have enough time to discuss the plea, deal and negotiate on the terms. I needed time to think it over but the Jury Trial was being rushed with no legal defense and no evidence prepared by ineffective counsel Eric Placke. I would have lost the trial by default with up to 20 years hard time in prison.
2. Placke told me if I did not accept the plea agreement I wouldn't get that reduction for acceptance of responsibility.
3. With my brittle diabetes, the out of control blood sugar readings I get, I was not thinking straight when I plead guilty.
4. When I am rushed into things without being prepared, I can make mistakes and errors. I was clearly rushed and railroaded into the plea agreement.
5. I have mild autism, OCD General Anxiety Disorder, and type 1 brittle diabetes. My health affects all the decisions I make in my case.

Attachment A page 2/2

5.(cont.) My A1C diabetic blood hemoglobin level was registered as 10.9 at FCI¹ Butner, NC institution around Feb. 2014. Ever since my incarceration, my health has worsened, my weight has dropped significantly from over 200 to less than 160. I am afraid of kidney and nerve damage. By taking the plea agreement, would have protected my health from further damage since my sentence would have been reduced to time I am already serving in Jail. My health has forced me to plead guilty to that plea deal. After ~~weeks~~^{days} of thinking, I realized all the conditions of supervised release would put a lot of stress on me since I ain't guilty. The stress would severely affect my blood sugars. I realized my health may get worse going along with the plea agreement.

6. I am easy to manipulate into doing things I regret. I believe my family was manipulated and deceived to tell me to take the plea agreement in the courtroom.

7. My ~~attorney~~ ex-attorney Eric Plackie (I fired him) did not have witnesses prepared, did not have evidence prepared for trial. I couldn't win with no defense. My ex-attorney focused on the plea agreement. Me and him had disagreements, and weren't on the same page.

8. So a combined ineffective counsel that didn't represent me, my poor health with a high A1C level, being rushed, and other factors caused me to plead guilty.

I, Brian David Hill, declare under penalty of perjury that the foregoing is true and correct. Executed on August 27, 2014.

Statements:

Brian D. Hill
signed

1. I believe I am innocent of the indictment charge against me. That I was set up on child porn. The detective Robert Bridge found that my IP Address was logged for only six days between July 20, 2012 and July 26, 2012. Around July 2012 I received a virus or trojan horse that ran emule.exe without my consent. I sent letters to the Greensboro FBI and SBI with declarations on the ~~virus~~ virus or trojan horse.
2. I made up what I told the detectives because of the threat given to me on August 28, 2012. I did not masturbate to child porn. I am into Asian adults. I did try to tell the detectives about the virus or trojan horse but all they wanted to hear was guilt, a guilty confession. The threat by Maydan Police Chief Charles J. Caruso caused the false confession. That is my basis to suppress the confession that it was false and involuntary, that it was under duress. I have mild autism, a mental disability, so since the confession was coerced by Chief Caruso the confession can be suppressed and is inadmissible from court record.

Attachment B Page 2/2

3. Since the police detectives used my computer to claim to look for child pornography, they violated state crime lab policy on previous examinations and contaminated the evidence. Under NC statute on admissibility of state forensic crime lab reports, each report is done under the assumption that crime lab policy and procedure was followed. The police did not follow correct procedure and violated policy. I sent evidence and letters to the NC SBI office in Greensboro that policy and procedure was violated. Therefore is sufficient basis, sufficient grounds to prove that the crime lab reports are inadmissible from court record, thus can be legally suppressed from my case.

4. There is no significant amount of evidence to prosecute me under. I have evidence of my computer or computers being under hacker attack. The evidence is on my hard drives, not just in my claims. That is why I sent letters to the FBI and SBI.

5. I have a lot of alibis in 2012. My mother has records of my alibis which she can scan and then send a copy to the court if necessary.

6. Therefore I assert a factual claim of innocence.

7. The consequence of my guilty plea I was not aware of was that under supervised release, I would be subjected to searches and seizures without or with a warrant by probation.